

**REMARKS**

Claims 15-16 are rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Mackey (U.S. Patent No. 6,857,633) in view of Briant (U.S. Patent No. 5,580,294). Claim 17 is rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Mackey in further view of Briant and Johanningmeier (U.S. Patent No. 2,945,696). <sup>1</sup>

Currently, claims 1-14, 25, 27-32 and 36-41 are cancelled, claims 15-17, 22-24, 26, and 33-35 are being amended, and new claims 42-51 are being added. No new matter is added by these amendments. The following table shows similarity between new claims and previously claims.

New Claim	Previous Claim
42	15
43	16
44	17
45	26
46	38
47	40
48	4
49	5
50	6
51	8

The applicant's representative, Mr. Daley-Watson, wishes to thank Examiner Mendiratta for the telephone interview conducted yesterday, 20 December 2005. During the interview, the parties discussed the method claims. In particular, Examiner Mendiratta requested that the claims be written in a clearer fashion to recite, e.g., providing of structure, such as a toy, and then steps employed to play a game using that structure/toy. Further, during the interview, Examiner Mendiratta requested that a formal, rather than

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<sup>1</sup> Silence regarding the position taken, or argument made, by the Examiner does not indicate any acquiescence to that position or argument. Furthermore, arguments made with respect to a particular claim or claims apply only to that claim or claims, and not to other claims, unless specifically noted herein.

draft, response be filed, and agreed to call the undersigned attorney below if any additional concerns existed regarding the claims. Further details regarding the interview are presented below. If Examiner Mendiratta believes that any additional information regarding the interview is necessary, please let the undersigned attorney know.

The disclosed embodiments of the game are directed to playing a game using a toy or model that is initially constructed by the players. For example, the players may punch out or remove flat pieces from a card, and then manually build a toy using those pieces, such as two different vehicles. One or more optional accessories can be removably secured to the vehicle. Then, under game play, the players take turns moving the constructed vehicles with respect to each other, and generating random numbers (e.g., rolling dice, using a spinner, etc.). When one player achieves a "hit" or otherwise affects a negative event with respect to the other player, a piece from the other player's vehicle is removed. Game play continues as the vehicles battle each other and pieces are removed until a certain number or type of pieces are removed from one of the vehicles, which results in the other player being the winner. As an alternative, rather than removing pieces, substitute pieces representing damage to the vehicle are replaced on the vehicle.

Figures 1A and 1B show examples of two different cards having punch-out pieces that may be assembled to build two different robots. Two or more of these cards may be packaged in an opaque wrapper and distributed for sale. Different types of vehicles or robots may be sold in differing levels of distribution, with some types of vehicles/robots being more rare than others.

Turning now to the applied art, Mackey is directed to a castle block game whereby one player builds a castle, and another player fires a catapult at the castle. Upon scoring a hit, blocks are removed from the castle, starting from the top of the castle and moving downward. Briant is directed to a castle that may be manually constructed using planer panels. Examiner Mendiratta also mentioned U.S. Patent No. 4,167,830 during the

telephone interview. Attorney for applicants has reviewed this reference briefly and note that it is directed to an amphibious vehicle toy that may be modified into multiple configurations. Further, the toy includes a spinner for generating a random value on the underside of the vehicle.

Overall, none of the applied references are directed to a game where, among other limitations, the models or toys are moved relative to each other during game play. Thus, for example, the applied references lack the steps of moving the manually assembled toy by the players, as recited *inter alia*, in claim 15. Furthermore, both Mackey and Briant disclose castles that are immovable, and only Mackey discloses a game. Thus, the applied references fail to disclose a game that employs a toy that is a "vehicle or robot" as recited, among other limitations, in claim 15. Moreover, none of the presently applied references recite a game where, among other steps, two toys are first assembled from pieces that are manually punched out or removed from one or more panels.

These are only some of the distinctions between claim 15 and the applied references. The remaining independent claims 42 and 48 recite similar limitations lacking in the references, and are thus allowable for similar reasons. For example, claim 42 also recites that the toys are distributed as a set within a package that obscures the toys from the purchaser, and where the toys are randomly collated with other toys in distribution. Such limitations are lacking. Claim 48 recites that the pieces are removed from panels that have a width-to-length ratio of approximately 5.5 to 8. (Support this limitation can be found, for example, in the card depicted in Figure 3.) Again, such limitations are lacking.

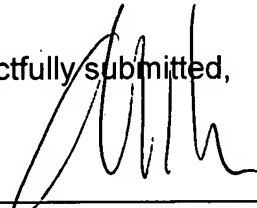
In view of the above amendments, applicants believe the pending application is in condition for allowance. Overall, none of the applied references, singly or in any motivated combination, teach or suggest the features recited in independent claims 15, 42, and 48, and thus such claims are allowable. Since these independent claims are allowable, based on at least the above reasons, the claims which depend from them are likewise allowable. If the undersigned attorney has overlooked a relevant teaching in any of the references,

the Examiner is requested to point out specifically where such teaching may be found. As noted above, the Examiner has agreed to call the undersigned at (206) 359-3599 with any questions or to help expedite prosecution.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0665, under Order No. 236528002US2 from which the undersigned is authorized to draw.

Dated: December 21, 2005

Respectfully submitted,



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